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Attorney for Defendants, WAYNE HUNT, U.S. ALCHEMY  
CORPORATION dba UKIAH AUTO DISMANTLERS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PINOLEVILLE POMO NATION,	)	Case No. C 07 2648 EMC
PINOLEVILLE POMO	)	
ENVIRONEMENTAL ASSOCIATION	)	
and LEONA WILLIAMS,	)	
	)	DEFENDANT UKIAH AUTO
Plaintiffs,	)	DISMANTLERS, WAYNE HUNT
	)	AND U.S. ALCHEMY
v.	)	CORPORATION'S NOTICE OF
	)	MOTION AND MOTION TO
UKIAH AUTO DISMANTLERS;	)	DISMISS FIRST, SECOND AND
WAYNE HUNT; ISABEL LEWRIGHT;	)	THIRD CAUSES OF ACTION
WARRIOR INDUSTRIES, INC.;	)	
RICHARD MAYFIELD; ROSS	)	<u>Hearing:</u>
JUNION MAYFIELD; PAULA	)	Date: September 19, 2007
MAYFIELD; KENNETH HUNT; U.S.	)	Time: 10:30 a.m.
ALCHEMY CORPORATION and	)	Dept: Courtroom C
DOES 1-50, inclusive,	)	Judge: The Hon. Edward M. Chen
	)	
Defendants.	)	

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that at 10:30 a.m. or as soon thereafter as the matter may be heard, on Wednesday, September 19, 2007, Defendants WAYNE HUNT ("HUNT") and U.S. ALCHEMY CORPORATION, dba UKIAH AUTO DISMANTLERS ("UAD") will move to dismiss the Complaint in this action pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure ("FRCP"). This motion will be heard by the Honorable Edward M. Chen, Judge of the United States District Court for

1 the Northern District of California, in Courtroom C of the United States Courthouse  
2 located at 450 Golden Gate Avenue, San Francisco, California.

3 The grounds for this motion are as follows:

4 1. The first cause of action for failure to obtain an NPDES Permit must be  
5 dismissed for: (1) lack of subject matter jurisdiction under FRCP 12I(b)(1); and (2) failure  
6 to state a claim upon which relief can be granted pursuant to FRCP 12(b)(6).

7 2. The first claim for relief and all causes of action upon which it is based for  
8 "discharge without an NPDES Permit and violation of a NPDES Permit for non-  
9 stormwater discharges" under FRCP 12(b)(1) and 12(b)(6);

10 3. The second claim for relief and all causes of action upon which it is premised  
11 for violation of industrial storm water regulations must be dismissed for both lack of  
12 subject matter jurisdiction and failure to state a claim upon which relief can be granted,  
13 under FRCP 12(b)(1) and 12(b)(6);

14 4. The third claim for relief and all causes of action upon which it is based for  
15 violation of RCRA must be dismissed for both lack of subject matter jurisdiction and  
16 failure to state a claim upon which relief can be granted under FRCP 12(b)(1) and  
17 12(b)(6);

18 5. The fourth claim of relief and all causes of action upon which it is based for  
19 violation of RCRA must be dismissed for both lack of subject matter jurisdiction and  
20 failure to state a claim upon which relief can be granted under FRCP 12(b)(1) and  
21 12(b)(6);

22 6. The fifth claim of relief for restitution and injunctive relief pursuant to the  
23 California Unfair Trade Practices Act must be dismissed for both lack of subject matter  
24 jurisdiction and failure to state a claim upon which relief can be granted under FRCP  
25 12(b)(1) and 12(b)(6);

26 7. The first cause of action for violation of the CWA must be dismissed for both  
27 lack of subject matter jurisdiction and failure to state a claim upon which relief can be  
28 granted under FRCP 12(b)(1) and 12(b)(6);

8. The second cause of action for intentional violation of statutory duty must be  
dismissed for both lack of subject matter jurisdiction and failure to state a claim upon  
which relief can be granted under FRCP 12(b)(1) and 12(b)(6);

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2 9. The third cause of action for negligence must be dismissed for both lack of  
3 subject matter jurisdiction and failure to state a claim upon which relief can be granted  
4 under FRCP 12(b)(1) and 12(b)(6);

5 This motion is based upon this Notice, the Memorandum of Points and  
6 Authorities filed in Support of the motion; upon all of the pleadings, files and records  
7 herein, and upon such matters and argument as may be presented to the Court at the  
8 time of the hearing.

9 DATED: July 31, 2007

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10 CHRISTOPHER J. NEARY  
11 Attorney for Defendants  
12 WAYNE HUNT and U.S. ALCHEMY  
13 CORPORATION dba UKIAH AUTO  
14 DISMANTLERS  
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